

1/6/20-CC

Carlos León

DEC 30 19 PM 11:40  
DCC RECEIVED AT

Complaint

12/20/19

TO: Stephanie Hall, Coordinator of  
Boards & Commissions

Re: Presiding officer vice chair  
Rebecca Webber not following  
Public Safety Commission bylaws,  
Public Safety Commission internal  
operating procedures, city code,  
state law or federal law  
~~at~~ during the December 2, 2019  
meeting to abuse her official  
capacity to officially oppress me,  
allegedly

(1 of 2)

~~RECEIVED~~

Agenda item 6 was "Future Agenda Items,"  
(Exhibit 1). Following Public Safety  
Commission rules, I signed up to  
speak on Item 6 before the meeting  
started (Exhibit 2). However,  
Webber NEVER called Item 6 or  
recognized me to speak on Item 6  
during the December 2, 2019 meeting  
(Listen to the audio record of the  
meeting to verify for yourself).

Therefore, Webber violated Public Safety Commission bylaws, because Article 7(G) says "The board shall allow citizens to address the board on agenda items," (Exhibit 3).

Therefore, Webber violated Public Safety Commission internal operating procedure 3 for setting the agenda that says "Chair - default is that agenda items will be action items" (Exhibit 4).

Therefore, Webber violated Public Safety Commission internal operating procedure 2 for setting the agenda that says "Chair - schedule time at end of every meeting to discuss pending agenda items," (Exhibit 4).

Therefore, Webber violated Texas Government Code 551.007 (b) that says "A governmental body shall allow each member of the public who desires to address the body regarding an item on an agenda for an open meeting of the body to address the body regarding the item at the ~~and~~ meeting before or during the body's consideration of the item, (Exhibit 5).

(2 of 12)

Because Webber did not allow the Public Safety Commission to consider Agenda Item 6, she had to allow me to speak to it before ending the meeting, which she did not though the sign-up sheet (Exhibit 2) was in front of her.

Therefore Webber violated City Code 2-1-43 (B) that says "Each ~~board~~ board shall comply with Government Code, Chapter 551 (Open Meetings Act)" (Exhibit 5).

3 of 12  
Though Robert's Rules of Order (11th edition) says that "Any general order... that was not reached is... taken up under unfinished business" (p. 237 lines 2-4) "at the next regular session" (p. 236, line 33) and City Code 2-1-44 (A) says "Board meetings are governed by Robert's Rules of Order and the board's bylaws" (Exhibit 5), City Code 2-1-1 (C) overrides all that, saying State law supersedes chapter 2-1 to the extent of conflict.

In fact, Webber cannot justify not calling Agenda Item 6 and not

recognizing me to speak on Agenda Item 6 as a special rule of procedure because City Code 2-1-44 (D) says that "A board's special rules of procedure may not conflict with state or federal law, the board's bylaws or the City Code," (Exhibit 5).

Also, Texas Attorney General ~~opinion~~ ~~H-100~~ says in deciding what matters to consider or which speakers to hear, a government body must not unreasonably discriminate because it may not abridge constitutionally guaranteed rights of freedom of speech or unfairly discriminate among views seeking expression, though Webber allegedly exactly that to illegally chill my free speech. See Exhibit 6.

Though Webber will likely claim that she forgot, didn't see, or didn't have time for Item 6, her detail-oriented presiding officer experience managing the meeting + clock communicates the opposite.

(4 to 6)  
(2)

"Because City Code 2-1-48(B)(2) says  
The presiding officer shall exercise  
the officer's authority impartially,"  
like a judge, Justice Scalia said  
procedure matters most how  
things should be done as opposed  
to what should be done with  
"how" being fidelity to law.  
(See Reading Law (2012) by Scalia  
+ Garner ch. 59 ("The false notion  
that the quest in statutory  
interpretation is to do justice")

Lawyer Webber should be able to  
understand the legal arguments  
in this complaint + the seriousness  
of her alleged illegal behavior that  
was the exact opposite what it  
should have been, which not only  
must she NEVER repeat but must  
not be allowed by any other  
presiding officer of any other  
City board commission committee  
or council moving forward.

Otherwise Texas Government Code  
551.142(a) says that an interested  
person may bring an injunction to  
stop prevent or reverse a  
violation of ~~this~~ Chapter 551  
by members of a governmental  
body.

Expect me to follow up in  
person with you to hold  
Vice Chair Rebecca Webber  
accountable for what she did  
and to make sure this bullcrap  
does not happen to anyone else  
legally trying to exercise their  
free speech expression right  
protected by the 1st Amendment  
of the Constitution of the  
United States of AMERICA.

GOD BLESS AMERICA

6  
of  
12  
In Solidarity,

Carlos León

Carlos León

Note: By not calling  
Agenda Item 6 during  
the meeting, allegedly to  
not allow me to speak to  
it, Webber also violated  
the Texas Citizens  
Participation Act by not  
allowing me to participate  
in the meeting to the  
maximum extent permitted  
by law.



17  
OK  
P

**PUBLIC SAFETY COMMISSION MEETING**

**Monday, December 2, 2019 @ 4:00pm**

**City Hall Boards and Commissions Room**

**301 W. 2<sup>nd</sup> Street  
Austin, Texas 78701**



Exhibit 1

**AGENDA**

**CALL TO ORDER**  
(4:00pm)

**CITIZENS COMMUNICATION**  
(4:05pm-4:20pm)

The first five speakers signed up prior to the Call to Order will each be allowed a three-minute allotment to address their concerns regarding items not posted on the agenda.

**1. APPROVAL OF MINUTES**  
(4:20pm-4:25pm)

**Items for Presentations, Discussion, and Possible Action:**

**2. Quarterly stats from public safety departments authorized strength, vacancies, overtime hours, call volume, response times** (4:20pm-4:50pm)

Sponsored by Commissioners Landuyt, Hausenfluck and Webber

Speakers:

- Rob Vires, Chief of Staff, Austin Fire Department
- Jasper Brown, Austin Travis County Emergency Medical Services
- Troy Gay, Chief of Staff, Austin Police Department

**3. Sexual Harassment Policy Update in Austin Public Safety Departments** (4:50pm-5:10pm)  
Sponsored by Commissioner Scruggs and Webber, Landuyt, and Bernhardt

Speakers:

- Rob Vires, Chief of Staff, Austin Fire Department
- Jasper Brown, Austin/Travis County Emergency Medical Services
- Troy Gay, Chief of Staff, Austin Police Department
- Christine Jones, Captain, Austin Fire Department

**4. Austin Fire Department Auto Aid agreement –** (5:10pm- 5:30pm) Sponsored by Commissioner Scruggs and Webber

Speaker:

- Rob Vires, Chief of Staff, Austin Fire Department
- Robert Nicks, President, Austin Fire Fighters Association

**5. Discussion on Allegations of Racism and Homophobia Against APD Executives** (5:30pm-5:55pm)) Sponsored by Commissioners Webber and Nunez

(Over)

**6. Future Agenda Items** (5:55pm-6:00pm)

Exhibit 2

BOARD/COMMITTEE NAME: Public Safety Commission

DATE OF THE MEETING: 12-2-2019

NAME	CONTACT INFORMATION (phone, address, etc)	E-MAIL ADDRESS (optional):	AGENDA ITEM:
CARY ROBERTS	512-482-8107 815 BRAZOS, STE 701	CARY@AUSTINCRIME.ORG	5
Carlos León	—	—	CC, 6
Juliana Gonzalez	SAFE Alliance		Citizen Comm.
Julia Spann, co CEO	SAFE Alliance		Citizen Comm.



Exhibit 3  
BYLAWS OF THE  
Public Safety Commission

(Article 7 - Meetings)

- (C) The board may not conduct a closed meeting without the approval of the city attorney.
- (D) The board shall meet monthly. In November of each year, the board shall adopt a schedule of the meetings for the upcoming year, including makeup meeting dates for the holidays and cancelled meetings.
- (E) The chair may call a special meeting, and the chair shall call a special meeting if requested by three or more members. The call shall state the purpose of the meeting. A board may not call a meeting in addition to its regular scheduled meetings as identified in its adopted meeting schedule, more often than once a quarter, unless the meeting is required to comply with a statutory deadline or a deadline established by Council.
- (F) Six members constitute a quorum.
- (G) If a quorum for a meeting does not convene within one-half hour of the posted time for the meeting, then the meeting may not be held.
- (H) To be effective, a board action must be adopted by an affirmative vote of the number of members necessary to provide a quorum.
- (I) The chair has the same voting privilege as any other member.
- (J) The board shall allow citizens to address the board on agenda items and during a period of time set aside for citizen communications. The chair may limit a speaker to three minutes.
- (K) The staff liaison shall prepare the board minutes. The minutes of each board meeting must include the vote of each member on each item before the board and indicate whether a member is absent or failed to vote on an item.
- (L) The city clerk shall retain agendas, approved minutes, internal review reports and bylaws. The Austin Police Department shall retain all other board documents. The documents are public records under Texas Local Government Code Chapter 552 (Texas Public Information Act).
- (M) The chair shall adjourn a meeting not later than 10 p.m., unless the board votes to continue the meeting.
- (N) Each person and board member attending a board meeting should observe decorum pursuant to Section 2-1-48 of the City Code.
- (O) A member of the public may not address a board at a meeting on an item posted as a briefing.

# Exhibit 4

City of Austin  
Public Safety Commission  
Internal Operating Procedures  
Adopted March 7, 2016

## Pending agenda items

- (10 of 12)
1. Staff liaison – include a list of pending agenda items in back-up materials each month.
  2. Commissioners – when requesting that an item be placed on the agenda give the Chair, staff, and fellow commissioners as much of the following information as possible:
    - a. Why is the proposed agenda item important and timely?
    - b. When should the proposed agenda item be set on the agenda?
    - c. Is the proposed agenda item for discussion or action or both?
    - d. Are you requesting a presentation?
    - e. If you are requesting a presentation, what non-city staff speakers will you invite?
    - f. If you would like the Chair and staff to arrange for city staff speakers, what specifically do you want their presentation to cover?
    - g. Do you intend to offer a resolution on the topic?
    - h. Do you intend to propose the formation of a working group on the topic?
  3. Commissioners – request agenda items at the monthly meeting or between meetings by emailing the staff liaison and the Chair from your City of Austin email. Copy entire Commission on your agenda requests.

## Setting the agenda

1. Chair – schedule time at beginning of every meeting to review previous month's agenda and hear follow-up from staff on questions pending in previous month's minutes.
2. Chair – schedule time at end of every meeting to discuss pending agenda items.
3. Chair – default is that agenda items will be action items.
4. Chair – default is equal time for presentation and discussion for each agenda item.
5. Staff liaison – circulate draft agenda and back-up materials as soon as they become available in order to facilitate more community engagement and better preparation by commissioners.
6. Staff liaison – agenda items requested by at least two commissioners at least five days before the meeting but after the monthly planning meeting are allocated at least 10

79 =

TEXAS GOVERNMENT CODE

Exhibit 5

Sec. 551.007. PUBLIC TESTIMONY. (b) A governmental body shall allow each member of the public who desires to address the body regarding an item on an agenda for an open meeting of the body to address the body regarding the item at the meeting before or during the body's consideration of the item.

Sec. 551.001. DEFINITIONS. In this chapter:

(3) "Governmental body" means:

(A) a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members;

(C) a municipal governing body in the state;

(4) "Meeting" means:

(A) a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action; or

The term includes a session of a governmental body.

## THE CODE OF THE CITY OF AUSTIN, TEXAS

### CHAPTER 2-1. - CITY BOARDS.

§ 2-1-1 (C) - APPLICABILITY; CONFLICTS - Federal law, state law, the City Charter, and other City Code provisions supersede this chapter to the extent of conflict.

§ 2-1-43 (B) - MEETING REQUIREMENTS - Each board shall comply with Government Code Chapter 551 (Open Meetings Act).

§ 2-1-44 (A) - MEETING PROCEDURES. - Board meetings are governed by Robert's Rules of Order and the board's bylaws.

§ 2-1-44 (D) - MEETING PROCEDURES - Boards may adopt special rules of procedure as required. A board's special rules of procedure may not conflict with state or federal law, the board's bylaws, or the City Code.

2-1-48 (B)(2) - RULES OF ORDER - The presiding officer should exercise the officer's authority impartially.

# Exhibit 6

The Honorable C. A. Dickerson, page 2 (H-188)

The Act requires that notice of a meeting of a Commissioners Court be posted in the county courthouse giving the date, the place, and the subject of the meeting. Article 6252-17, § 3A.

12 of 12  
Attorney General Opinion M-220 (1968) dealt with the meaning of "open to the public". It concluded that the Legislature intended an open meeting to be one that the public was permitted to attend. "Open to the public" does not mean that the public may choose the items to be discussed or that they may discuss subjects on the agenda. It merely means that the public may attend the meetings. The purpose of the statute is to assure that the public has the opportunity to be informed concerning the transactions of public business. Toyah Ind. Sch. Dist. v. Pecos-Barstow Ind. Sch. Dist., 466 S. W. 2d 377 (Tex. Civ. App., San Antonio, 1971, no writ). See Attorney General Opinion H-3 (1973).

So long as the requirements of Article 6252-17, V. T. C. S., are met and the right of citizens to apply to their government for redress of grievance by "petition, address or remonstrance" is not abridged (Article 1, § 27, Constitution of Texas), it is our opinion that a Commissioners Court need not provide a public forum for every citizen wishing to express an opinion on a matter. However, in deciding what matters to consider, or which speakers to hear, it must not unreasonably discriminate. Reasonable restraints on the number, length, and frequency of presentations are permissible.

## SUMMARY

A commissioners court may limit the number of persons it will hear on a particular subject and the frequency with which they may appear, so long as its regulation does not abridge constitutionally guaranteed rights of freedom of speech and to petition, nor unfairly discriminate among views seeking expression.

Very truly yours,

*John L. Hill*  
JOHN L. HILL

Attorney General of Texas

Note: Texas Government Code 551.007 supersedes

this opinion saying that a government body need not provide a public forum for every

p. 878

Citizen wishing to express an opinion on a matter. - Texas Municipal League Legal Staff

"HB 2840 - Public Comment on Agenda Items - October 2019" (online document)

Carlos León - Item 1 1/6/20



DRAFT

**PUBLIC SAFETY COMMISSION  
MINUTES**

**REGULAR MEETING  
December 2, 2019**

The Public Safety Commission convened a meeting Monday, December 2, 2019 at City Hall in the Boards & Commission Room, at 4:00pm, 301 West 2<sup>nd</sup> Street, Austin Texas 78701.

Rebecca Webber, Vice Chair called the Board Meeting to order at 4:00p.m.

**Board Members in Attendance:**

Selena Alvarenga

Chris Harris

Rebecca Webber

Noel Landuyt

Kathleen Hausenfluck

Daniela Nunez

Rebecca Bernhardt

Meaghan Hollis

**Board Member Absent:**

Ed Scruggs

Preston Tyree

Rebecca Gonzales

**Staff in Attendance:**

Troy Gay, Chief of Staff, Austin Police Department

Rob Vires, Chief of Staff, Austin Fire Department

Jasper Brown, Chief of Staff, Austin Travis County Emergency Medical Services

**CITIZEN COMMUNICATIONS -**

100% FALSE

- Carlos Leon - ~~Banned from riding Capital Metro~~
- Julianna Gonzales, SAFE Alliance - monthly report on SAFE Alliance
- Julia Span, Co-CEO of SAFE Alliance - Overview of who we (SAFE Alliance) are and what do, who we serve



1. **APPROVAL OF MINUTES** – Commissioner asked for any comment or edits for the November 2, 2019 minutes and hearing no comments/edits from the board the minutes were deemed approved.

2. **Quarterly stats from public safety departments authorized strength, vacancies, overtime hours, call volume, response times**

Commissioner Webber introduced this item and asked the board if there were any questions on any of the backup materials provided prior to the meeting. Hearing no questions from the board members, Commissioner Webber moved to the next item on the agenda.

5. **Discussion on Allegations of Racism and Homophobia against APD Executives** –

Commissioner Webber began the discussion of this agenda item by reading Commissioner Scruggs statement/position on this topic to be added to the records for this meeting. Commissioner Scruggs was not in attendance. Commissioner Scruggs statement supported an open and transparent investigation into the Austin Police Department and requested monthly report from APD to the Public Safety Commissioner on their efforts/progress to address the allegations against the department.

Commissioner Webber informed the board that although Assistant Chief Gay was in attendance today, he has been informed by Anne Morgan, City of Austin Attorney he cannot speak on this topic at this time. Per Commissioner Webber they would move on with this discussion today.

**Webber called for speakers signed up to speak on this item.**

- Cary Roberts, Greater Austin Crime Commission was only speaker signed up  
Roberts commented the GACC supported the investigation into APD they did not support the postponement of Austin Police Department training classes as APD is already operating with a shortage of officers to keep Austin safe; to delay the addition of more officers on our city streets compromises Austin's safety. He cautioned the City Council to wait before changing city policies in regards to APD recruiting and training practices/policies. Roberts provided copies of the Greater Austin Crime Commission's response to the proposed resolution (#66 on 12-5-2019 council agenda from Council Member Natasha Harper Madison) to all board members.

The floor was opened for discussion by the PSC board members and the board weighed in with their questions and concerns on the allegations of racism and homophobia within APD.

Chris Harris expressed the resolution is merely an attempt to try to find out what is going on at APD in particular the training academy. What are the real issues at the training academy itself?

Commissioner Nunez voiced that the allegations against APD were not shocking and it shows how and why many of us do not trust the police.

Commissioner Hollis commented this is a culture issue, not a training issues and APD should have been out front on this issue and informing the community. There is no room for what she called democratic policing as it destroys communities, and we need equality.



Carlos León - 12/2/19 - Future Agenda Item

out during Citizen's Communication, including the Chair or Vice Chair?

- Anyone can step away during the meeting, as long as they return in a reasonable amount of time.
- It is not the suggested course of action for all commissioners to walk out in unison
- It is not recommended having people speak to an empty dais.
- Do the bylaws allow for Citizen Communication to only be on items on the posted agenda?
  - The Code (2-1-43) and the Bylaws do not specifically limit citizen communication to only agenda items. The bylaws state that citizens are allowed to address the board on agenda items and during a period of time set aside for citizen communications. The boards operate similarly to Council, and therefore, citizen communication does not need to be specifically limited to items on the agenda.
- Is there anything that can be done to address inappropriate comments made during Citizen's Communication?
  - The Law Department drafted a script to address decorum and consequences of bad behavior:

↓  
spoken  
1/6/20

#### Presiding Officer's Statement

Mr./Ms. (name if known), your behavior is disruptive and violates the decorum of the \_\_\_\_\_ Commission meeting. You are directed not to:

- Speak out of turn,
- Use disparaging or abusive language,
- Make threats of violence,
- Disrupt the meeting by (state the relevant conduct).

If you continue to violate decorum, your time will be cut short, or you may be removed from the Council Chambers for the remainder of this meeting.

#### Sample Warning re Criticism v. Disparaging Remark

You may criticize a [public official/public figure], but you may not use personally derogatory or disparaging remarks. Please find a way to state your criticism without using disparaging or derogatory remarks.

(2 of 1)

We will continue to have a security officer present at the Commission meetings in One Texas Center and work with any other locations the Commission may meet.

Please let me know if we can provide any further information.

Rebecca Kennedy  
Assistant Director  
Human Resources Department  
512-974-3293

From: Austen, Rebecca - BC  
Sent: Wednesday, June 19, 2019 7:05 AM

From: Austen, Rebecca - BC

Sent: Wednesday, June 19, 2019 7:05 AM

To: Nguyen, Vicky <Vicky.Nguyen@austintexas.gov>; Kennedy, Rebecca <Rebecca.Kennedy@austintexas.gov>; Dore, Bryan <Bryan.Dore@austintexas.gov>

Cc: District10 <District10@austintexas.gov>; Bope, Flannery - BC <bc-Flannery.Bope@austintexas.gov>

Subject: Citizen Communications

Carlos Leon's communications to the Commission for Women are hateful, derogatory, racist, sexist and immaterial to the work of the Commission. Commissioners have shared that they feel threatened and harassed by his speeches, even with security present at our meetings. I understand we cannot prohibit hate speech or prevent citizens from attending meetings, per First Amendment rights. I would like to understand what options Commissioners have in this situation. After the meeting is called to order, is there a quorum issue if a majority of all Commissioners step out of the room during any portion of citizen communications, given there is no action or vote required during this part of the agenda? Is there an issue if the Chair and/or Vice Chair steps out during this time?

We are honored to serve the City as Commissioners and deeply committed to our work. We simply do not wish to be repeatedly subjected to a toxic environment when we convene. Thank you.

Becky Austen, Chair

City of Austin Commission for Women

Rebecca Austen  
Boards and Commissions

(3 of 4)

From: Austen, Rebecca - BC  
To: Nguyen, Vicky  
Cc: Bope, Flannery - BC; Kennedy, Rebecca; Dore, Bryan  
Subject: Re: Carlos Leon  
Date: Thursday, June 20, 2019 9:14:13 AM

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Thanks Vicky. What about my other note regarding process and quorum? Is there a problem if Commissioners step out while he is speaking, including the Chair or Vice Chair? The issue is more with what he says, not his tone of voice. We should not be subjected to his hate speech and verbal battery, it creates an environment of harassment which would be disallowed in virtually any other public or professional setting. He also intimidates other citizens who may be signed up to speak.

Becky Austen

> On Jun 20, 2019, at 8:22 AM, Nguyen, Vicky <Vicky.Nguyen@austintexas.gov> wrote:

>

> I met with Rebecca yesterday at the end of the day and we had a conversation with someone in city communications. Consensus was that your social media accounts are yours. They're your personal accounts and are not tied to City accounts so you can do with them as you wish. It is my understanding that your personal accounts are not overseen by any public records rules or regulations so if you want to block someone from your own personal account, you can.

>

> As far as looking into criminal records goes, I don't have an answer for you. I don't know if that information is publicly available (I would imagine it's not).

>

> Ultimately, the Chair oversees the meeting. Before people speak, the Chair may limit speakers to three minutes during citizen communication and I believe the Chair may request that speakers speak in a reasonable volume and manner (considering the problems the commission has had). He needs to be aware that he's in a business place, not a public meeting area. He cannot raise his voice the way he continuously does and he cannot disrupt City business; perhaps violating that will provide room for security to intervene. We are all aware that interrupting him or engaging him makes it worse, but if a warning were said beforehand, that might be enough to change things.

>

> Vicky Nguyen

> HRD Human Resources Specialist

> Commission for Women Staff Liaison

>

> ---Original Message---

> From: Bope, Flannery - BC

> Sent: Wednesday, June 19, 2019 4:14 PM

> To: Nguyen, Vicky <Vicky.Nguyen@austintexas.gov>

> Cc: Austen, Rebecca - BC <BC-Rebecca.Austen@austintexas.gov>

> Subject: Carlos Leon

>

> Hi —

>

> I'm wondering if APD can provide us with Carlos Leon's criminal history.

>

> There's a woman on Facebook attacking me for my behavior at the last meeting claiming that Carlos is not a threat and that APD doesn't have anything on him. (And doesn't understand why I would be afraid of him.)

>

> I think we would all be more comfortable knowing if this is true or not.

>

> Flannery

>

> Sent from my iPhone

(4 of 4)  
(b7D)

